

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

-----X

In re:

Michael Krichevsky

Case No. 22-71045-AST

Chapter 11

Debtor.

-----X

AMENDED CONTESTED MATTER SCHEDULING ORDER

The Court enters this Order in accordance with Federal Rule of Civil Procedure 16, as incorporated by Federal Rules of Bankruptcy Procedure 7016 and 9014, as well as Bankruptcy Rule 1001.

Matters Under Submission, Hearing Date and Time Limits:

1. Pending before the Court are the following:

Select Portfolio Servicing, Inc. as servicer for U.S. Bank NA, successor trustee to Bank of America NA, successor in interest to LaSalle Bank NA, on behalf of the holders of the WaMu Mortgage Pass-Through Certificates, Series 2005-AR15, Motion to Dismiss [Dkt. Item 249].

Declaration of James N. Faller on behalf of Wells Fargo Bank, N.A. as servicing agent for U.S. Bank National Association, as Trustee for Banc of America Funding Corporation Mortgage Pass-Through Certificates, Series 2006-F, joining in the Motion to Dismiss at Dkt. Item 249 [Dkt. Item 257].

United States Trustee's Motion to Convert Chapter 11 Case to a Case Under Chapter 7, or in the Alternative, to Dismiss Chapter 11 Case [Dkt. 292]

Collectively, (the "Movants" and along with any responses or objections, the "Matters").

2. An evidentiary hearing on the Matters (the "Hearing") shall be held on **July 28, 2022, at 1:00 p.m. EST** at Courtroom 960, United States Bankruptcy Court, the Alfonse M. D'Amato U.S. Courthouse, 290 Federal Plaza, Central Islip, New York.

Any supplemental filings shall be filed no later than **July 11, 2022**.

3. Movants shall be given a total of **sixty (60) minutes** to present all arguments and evidence.

Debtor shall be given a total of **sixty (60) minutes** to present all arguments and evidence.

Direct Testimony by Affidavit:

4. The parties shall submit any direct testimony from themselves and any witness under their control (including experts and appraisers) by Affidavit signed by the witness(es). Affidavits shall be filed with the Court no later than **July 11, 2022**; copies of the filed Affidavits shall be served upon the opposing party (or parties) by facsimile, electronic mail, or first-class mail contemporaneously with the filing of same with the Court. Any witness for whom an Affidavit of direct testimony has been filed must appear at the hearing for cross-examination. Any objection to any portion of any party's witness affidavit, including evidentiary objections, shall be filed no later than **July 21, 2022**.

The Court will not consider any untimely affidavits or objections.

Nothing contained herein, however, shall limit the applicability of Rule 7032 of the Federal Rules of Bankruptcy Procedure.

5. The Movants and Debtor shall provide each other all exhibits by no later than **July 11, 2022**. Movants shall use numbers and Debtor shall use letters.

Submissions:

6. On or before **July 21, 2022**, each side shall email the Court with the vaccination status (fully vaccinated with booster/fully vaccinated without booster/partially vaccinated/unvaccinated) of each attorney and party-controlled witness who may be present for the Hearing; such email shall be sent to ast_hearings@nyeb.uscourts.gov. All persons attending the Hearing shall wear a surgical, N95, KN95 or similar mask that covers the person's nose and mouth; the mask may only be removed with the permission of the judge.
7. Parties shall bring sufficient copies of all exhibits to Court for the Hearing so that a copy is available for the Courtroom Deputy, the witness and each counsel. The parties shall provide one (1) additional set of exhibits in hard copy, and two (2) additional sets on a CD rom, flash drive or other media to Chambers no later than **July 21, 2022**. Exhibits shall be assembled in notebooks tabbed with appropriate exhibit numbers/letters.

Compliance with Rule 9037:

8. All papers submitted to the Court, including exhibits, must comply with Bankruptcy Rule 9037.

Settlement:

9. If any or all the Matters are settled, the parties shall submit to the Court a stipulation approved by all parties and a motion for approval of the same no less than **seven (7) business days** prior to the date of the Hearing, along with an email to ast_hearings@nyeb.uscourts.gov, notifying the Court of the proposed settlement. **If a stipulation and motion are not timely submitted to the Court, all parties shall be prepared to proceed with the evidentiary Hearing.** If the matter is removed from the calendar based upon the announcement of a settlement, the contested matter will not be reset for Hearing if the parties fail to consummate the settlement. In such event, the Court will consider only a motion to enforce the settlement, unless the sole reason the settlement is not consummated is that the Court did not approve the settlement, in which case the matter will be reset for Hearing at a later date.

Sanctions for Non-Compliance:

10. Failure to appear at the Hearing or to comply with any provision of this Order may result in appropriate sanctions in accordance with Bankruptcy Rules 1001, 7016, 7037 and 9014, including the award of attorney's fees, striking of papers, exclusion of exhibits or witnesses, or the granting or denial of any of the Matters.

Continuances:


11. Continuances of the Hearing or any deadlines set forth in this Order must be requested by written motion. Any request for continuance or amendment to this order shall set forth the status of discovery and shall state the reasons why the party or parties seek a continuance.

Service:

12. Select Portfolio Servicing, Inc. as servicer for U.S. Bank NA, successor trustee to Bank of America NA, successor in interest to LaSalle Bank NA, on behalf of the holders of the WaMu Mortgage Pass-Through Certificates, Series 2005-AR15 shall serve a copy of this Order on all parties-in-interest within **two (2) business days** following entry of this Order and file a certificate of service thereof within **two (2) business days** thereafter, as required by this Court's Local Rules.

Dated: June 30, 2022
Central Islip, New York




Alan S. Trust
Chief United States Bankruptcy Judge